

Analysis of Horse Protection Act enforcement data, 2018-2020

The horse sorers are claiming that the data on which the 2017 HPA rule is based is “stale,” and say therefore that USDA should scrap the rule. However, the data regarding HPA enforcement during the years since the withdrawal of the 2017 rule demonstrates that the pattern of failed enforcement of the HPA by Horse Industry Organizations (on which justification for the rule was based, in part) continues to this day. In fact, the recent data is skewed and underrepresents the amount of soring occurring in the past few years under the previous administration. During this time the USDA entered into a period of largely hands-off enforcement, sending USDA inspectors to fewer shows, conducting fewer swab tests to determine whether soring or pain masking substances were being used on show horses, and turning primary responsibility for enforcement of the law over to Horse Industry Organizations.

When USDA veterinary medical officers (VMOs) attended horse shows, they were often there on an “observe only” basis. When VMOs did inspect horses, if they found an animal to be noncompliant with the HPA, they simply referred the horse back to the industry inspector for further inspection and disposition. No information was taken by the VMO for a possible federal case – and consequently, there is no public record of any individual violations having occurred during this period (as the HIOs are not required to make public their actions taken upon the finding of an HPA violation). Further, the number of federal cases pursued (and letters of warning issued) by the agency fell off precipitously. For example:

	2017	2018	2019	2020
Cases Initiated	75	0	2	0
Letters of Warning/7060s	213	0	0	0

During this period there was also a removal of all information on specific violations (with the exception of completely adjudicated federal cases) from the online databases previously available to the public – resulting in reduced transparency about the Horse Protection program and its efficacy or lack thereof in preventing repeat offenses by chronic violators.

Nevertheless, even with the limited aggregate data available online for the years 2018-2020, it is clear that the pattern of industry inspectors (Designated Qualified Persons, or DQPs) finding far fewer violations than USDA VMOs at the shows that these veterinarians attended continued throughout the period since the rule’s 2017 withdrawal, as this table reflects:

	2018	2019	2020
% of horses <u>DQPs inspected</u> and found in violation <u>at shows USDA attended</u>	0.032224	0.047289	0.049866
% of horses <u>VMOs inspected</u> and found in violation <u>at shows USDA attended</u>	0.099512	0.204132	0.234756
% higher rate of violations found by VMOs than DQPs <u>at shows USDA attended</u>	308.8148	431.6691	470.7737
% of horses DQPs inspected and found in violation <u>at shows USDA did not attend</u>	0.00555	0.00902	0.00699
% higher rate of violations found by DQPs when USDA present vs. not	580.662	524.268	713.595
Conversely, % rate of violations found by DQPs when USDA not present vs. present	17.222	19.047	14.014

- The VMOs found violations at a rate ranging from 308% to 470% higher than did DQPs, at the shows USDA attended between 2018 and 2020.
- Comparing the DQPs' rate of violation detection at shows attended by USDA to that at those shows at which the agency did not have a presence, the difference is also striking. Their detection rate at shows attended by USDA was between .032% and .049%; at shows not attended by USDA, the detection rate drops to between .0055% and .0090%.
- Over the three years of 2018, 2019 and 2020, DQPs found violations at a rate of 580.6%, 524.2% and 713.5% (respectively) more when USDA was present than when not.
- Conversely, DQPs found violations at a rate of only 17.2%, 19% and 14% over the three years (respectively) when USDA was not present, compared to when they were.
- On average during this 3-year period, at the shows USDA attended USDA inspectors found violations at a rate 403% higher than did industry inspectors. And industry inspectors found violations at a rate 606% higher when USDA was present than when not.

The data from 2018 to 2020 demonstrates that, consistent with the findings in the 2010 report of the USDA OIG's audit and the experience in the ensuing years leading up to the finalization of the rule, DQPs continue to find considerably fewer violations than VMOs at shows at which USDA has a presence, and far fewer violations at those shows at which USDA is absent. In the same vein, the January 2021 National Academies of Sciences, Engineering, and Medicine report found that industry inspectors often failed to conduct proper inspections, and recommended that these lay people no longer be utilized in this capacity – with only veterinarians performing this function at horse shows (a key element of the 2017 rule).

Unsurprisingly, the sorers are claiming again, as they have for years, that this problem has basically gone away, so there's no need for the 2017 rule. But what is clear from the data is that the industry inspectors are still turning a blind eye to sorning – finding only a fraction of the violations found by USDA inspectors – and they can't be trusted to find and cite violations. The rule is needed as urgently as before because we'll never end sorning abuse if we don't end the industry self-policing.